



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/815,262  
Applicant : Charles Q. Meng  
Filed : March 21, 2001  
TC/A.U. : 1621  
Examiner : Jean F. Vollano

Confirmation No. 4560

Docket No. : 04676.105055 (ATH 114US)  
Customer No. : 20786

RECEIVED

DEC 29 2003

TECH CENTER 1600/2900

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

November 26, 2003

TERMINAL DISCLAIMER

Sir:

Assignee Atherogenics, the owner of entire interest of U.S. Serial No. 09/815,262, through the undersigned attorney of record, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 USC §§ 154 and 173 of U.S. Patent Nos. 6,602,914, issued August 5, 2003, and 6,617,352, issued September 9, 2003, as well as the patent granted on allowed, co-pending Application Nos. 10/114,351 and 10/115,206, as shortened by any terminal disclaimer filed prior to the grant.

The owners hereby agree that any patent so granted on the instant application shall be enforceable only for and during such period that it and the patents or any patent granted on the above-listed applications are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

The assignment of the priority document of the instant application was recorded at the Patent and Trademark Office at Reel 012695, Frame 0955, on February 28, 2002.

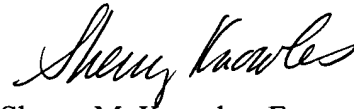
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC §§ 154 and 173 of any patent or patent granted on the other

Appl. No. 09/815,262  
Amdt. dated November 26, 2003  
Reply to Office Action of May 27, 2003

applications referenced above, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The Commissioner is hereby authorized to charge any required fees to Deposit Account No. 11-0980.

Respectfully submitted,



Sherry M. Knowles, Esq.  
Reg. No. 33,052

Date: November 26, 2003  
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K&S Docket: 04676.105055

**SUBJECT: DECISION ON TERMINAL DISCLAIMER INFORMAL FORM**

DATE: 1-9-04

APPL. S.N.: 091 815, 262

TO EXAMINER: J. Uellana

ART UNIT: 1621

**MOSE MONTGOMERY, ROOM 11E18**

MAILROOM DATE 12-1-04

AFTER FINAL YES ☐ NO ☒ NUMBER OF T.D(S). FILED 1

**INSTRUCTIONS:** I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next office action to notify applicant about the T.D. If you disagree with my analysis or have questions at all about the acceptability of the T.D., please see me or our Special Program Examiner. THIS MEMO IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE MAILED TO APPLICANT, NOR SHOULD A COPY BE LEFT IN FILE.

☒ The T.D. is PROPER and has been recorded. (See 14.23).

☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below. (See 14.24).

☐ The recording fee of \$\_\_\_\_\_ has not been submitted nor is there any pre authorization in the application file to charge to a deposit account. (See 14.26.07)

☐ Application Examiner has not processed T.D. fee. (See fee authorization).

☐ The T.D. does not satisfy Rule 321(b)(3) in that the person who has signed the T.D. has not stated his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent. (See 14.26 and 14.26.01).

☐ The T.D. lacks the enforceable only during the common ownership clause needed to overcome a double patenting rejection, Rule 321(c). (See 14.27, 14.27.01).

☐ It is directed to a particular claim(s), which is not acceptable since "the disclaimer must be of a terminal portion of the term of the entire patent to be granted". MPEP 1490. (See 14.26, 14.26.02).

☐ The person who signed the terminal disclaimer:

☐ has failed to state his/her capacity to sign for the business entity, (See 14.28).

☐ Is not recognized as an officer of the assignee, (See 14.29 and possibly 14.29.01).

☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame specified as to where such evidence is recorded in the office. 37 CFR 3.73(b). (See 1140 O.G. 72). **NOTE:** This documentary evidence or the specifying of the reel and frame may be found in the T.D. or in a separate paper submitted by applicant. (See 14.30).

☐ No "statement" specifying that the evidentiary documents have been reviewed and that, to the best of the assignee's knowledge and belief the title is in the assignee seeking to take action. 37 CFR 3.73(b). (See 1140 O.G. 72) (See 14.31).

☐ The T.D. is not signed. (See 14.26, 14.26.3). or 14.26.03 if TD is not signed by all the owners.

☐ Attorney not of record in oath/decl. or a separate paper filed appointing a new or associate attorney. (See 14.29.01).

☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting is missing or incorrect. (See 14.32).

☐ The serial number of this application (or the number of the patent in reexam or reissue case(s) being disclaimed is missing or incorrect. (See 14.26, 14.26.04 or 14.26.05).

☐ The period disclaimed is incorrect or not specified. (See 14.27, 14.27.2 or 14.27.3)(For Samples 14.27.04 and 14.27.05)

☐ Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Suggestion to request refund of \$\_\_\_\_\_. (See 14.35, 14.36).

**EXAMINER NOTE: IF APPLICATION IS IN CONDITION FOR ALLOWANCE ANY OF THE ABOVE INFORMALTIES MAY BE FAXED IN TO THE GROUP**

**FOR SAMPLE TERMINAL DISCLAIMERS AND CERTIFICATES:**

☐ Sample of a TD over a pending application and assignee Certificate (See 14.37).

☐ Sample of a TD over a prior patent and assignee Certificate (See 14.38).

☐ Sample Assignee Certificate under 37 CFR 3.73 (b) (See 14.39)